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8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA  
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11 BETHA ENTERPRISE, LLC,  
12 Plaintiff,  
13 v.  
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15 NATIONWIDE MUTUAL  
16 INSURANCE COMPANY, et al.  
17 Defendants.  
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Case No. 2:22-cv-09168-FLA (JCx)

**ORDER TO SHOW CAUSE WHY  
ACTION SHOULD NOT BE  
REMANDED FOR LACK OF  
SUBJECT MATTER JURISDICTION**

1 Federal courts are courts of “limited jurisdiction,” possessing only “power  
2 authorized by the Constitution and statute[.]” *Kokkonen v. Guardian Life Ins. Co. of*  
3 *Am.*, 511 U.S. 375, 377 (1994); U.S. Const. art. III, § 2, cl. 1. Courts are presumed to  
4 lack jurisdiction unless the contrary appears affirmatively from the record. *See*  
5 *DaimlerChrysler Corp. v. Cuno*, 547 U.S. 332, 342 n. 3 (2006). Additionally, federal  
6 courts have an obligation to examine jurisdiction *sua sponte* before proceeding to the  
7 merits of a case. *See Ruhrgas AG v. Marathon Oil Co.*, 526 U.S. 574, 583 (1999).

8 Federal courts have jurisdiction where an action arises under federal law or  
9 where each plaintiff’s citizenship is diverse from each defendant’s citizenship and the  
10 amount in controversy exceeds \$75,000, exclusive of interest and costs. 28 U.S.C.  
11 §§ 1331, 1332(a). Thus, a notice removing an action from state court to federal court  
12 must include “a plausible allegation that the amount in controversy exceeds the  
13 jurisdictional threshold.” *Dart Cherokee Basin Operating Co., LLC v. Owens*, 574  
14 U.S. 81, 89 (2014). Where “the plaintiff contests, or the court questions, the  
15 defendant’s allegation” concerning the amount in controversy, “both sides [shall]  
16 submit proof,” and the court may then decide whether the defendant has proven the  
17 amount in controversy “by a preponderance of the evidence.” *Id.* at 88–89. “Federal  
18 jurisdiction must be rejected if there is any doubt as to the right of removal in the first  
19 instance.” *Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir. 1992).

20 The court has reviewed the Notice of Removal and is presently unable to  
21 conclude it has subject matter jurisdiction under 28 U.S.C. § 1332(a). In particular,  
22 and without limitation, the court finds that the allegations in the Notice of Removal do  
23 not demonstrate by a preponderance of the evidence that the amount in controversy  
24 exceeds \$75,000.


25 The parties are ORDERED TO SHOW CAUSE, in writing only, within  
26 fourteen (14) days from the date of this Order, why this action should not be remanded  
27 for lack of subject matter jurisdiction because the amount in controversy does not  
28 exceed the jurisdictional threshold. The parties are encouraged to submit evidence

1 and/or judicially noticeable facts in response to the court's Order. Responses shall be  
2 limited to ten (10) pages in length. The parties should consider this Order to be a two-  
3 pronged inquiry into the facial and factual sufficiency of Defendant's demonstration  
4 of jurisdiction. *See Leite v. Crane Co.*, 749 F.3d 1117, 1122 (9th Cir. 2014).

5 As Defendant is the party asserting federal jurisdiction, Defendant's failure to  
6 respond timely and adequately to this Order shall result in dismissal of the action  
7 without further notice.

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9 IT IS SO ORDERED.

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11 Dated: July 26, 2023

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14 FERNANDO L. AENLLE-ROCHA  
15 United States District Judge  
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